

NUMBERS

1.012 million

In the first half of 2013, SIPO received 1.012 million patents of three kinds, up 18.1%.

101.2 万件

今年上半年, 中国国家知识产权局共受理 3 种专利申请 101.2 万件, 同比增长 18.1%。

1.39 trillion yuan

According to the statistics released by Ministry of Industry and Information Technology (MIIT), software revenue in the first quarter this year amounted to 1.39 trillion yuan, up 24.5%.

1.39 万亿元

中国工业和信息化部 7 月 29 日发布数据显示, 上半年, 中国软件产业实现软件业务收入 1.39 万亿元, 同比增长 24.5%。

10 million

Latest statistics shows that car sales and manufactures in Chinese market have both surpassed 10 million in the first half of 2013, up 10% respectively.

1000 万辆

最新数据显示, 2013 年上半年, 中国汽车产销量双双超过 1000 万辆, 同比增长均超过 10%。

3,566

2011 and 2012 witnessed fast growth of invention filings in Guangxi. Also it has got a fruitful season for the first half, invention patent filings amounted to 3,566, up 80%.

3566 件

继 2011 年和 2012 年连续两年发明专利申请量大幅增长后, 今年 1 至 6 月, 广西发明专利主要指标全面提升, 专利申请量达 3566 件, 同比增长 80%。

30,770

Since 2008, new patent applications in Yunnan province achieved 30,770, representing 51.6% of the total.

3.077 万件

自 2008 年实施建设创新型云南行动计划以来, 该省新增专利申请 3.077 万件, 占历年专利申请总量的 51.6%。

41,948

SIPO's recent news reveals that Huawei has filed an accumulated 41,948 patents, 30,240 of which have been granted.

41,948

截至 2012 年底, 华为公司累计提交中国专利申请 4.1948 万件, 获权 3.0240 万件。

Prada prevails in a trademark case "PRADA" 拒绝 "被广告"

In a first instance decision rendered by Wenzhou (Zhejiang) Intermediate People's court, a local real estate developer Wenzhou Times Real Estate Corporation using illegally Prada's trademarks in the advocacy advertising was ordered to cease infringement and indemnify Prada 140,000 yuan in damages.

Dispute over Prada trademark

On December 1, 2011, the Wenzhou Daily Newspaper published Wenzhou Times's advertisement, in which it advocates that a product promotion meeting and luxury show would be co-hosted by Prada and Wenzhou Times on December 4.

Prada claimed that as a world well-known brand, they have established high reputation in the luxury industry. In the advertisement, Wenzhou Times used Prada trademark without authorization to promote their business reputation and has infringed their registered trademark.

Prada then sought injunctions and 500,000 yuan in damages to the court. The two defendants should issue an apology in Wenzhou Daily Newspaper to eliminate influence and restore the reputation.

Two defendants' arguments

Established in 2001, Wenzhou Times is a real estate developer. In October 2011, Wenzhou Times signed a contract with the third party Dehu Company and entrusted the latter company to host the above-mentioned promotion meeting and luxury show.

planning scheme provided by Wenzhou Times claimed that based on the Prada's brand influence in the industry, Wenzhou Times would build up a good reputation in less time.

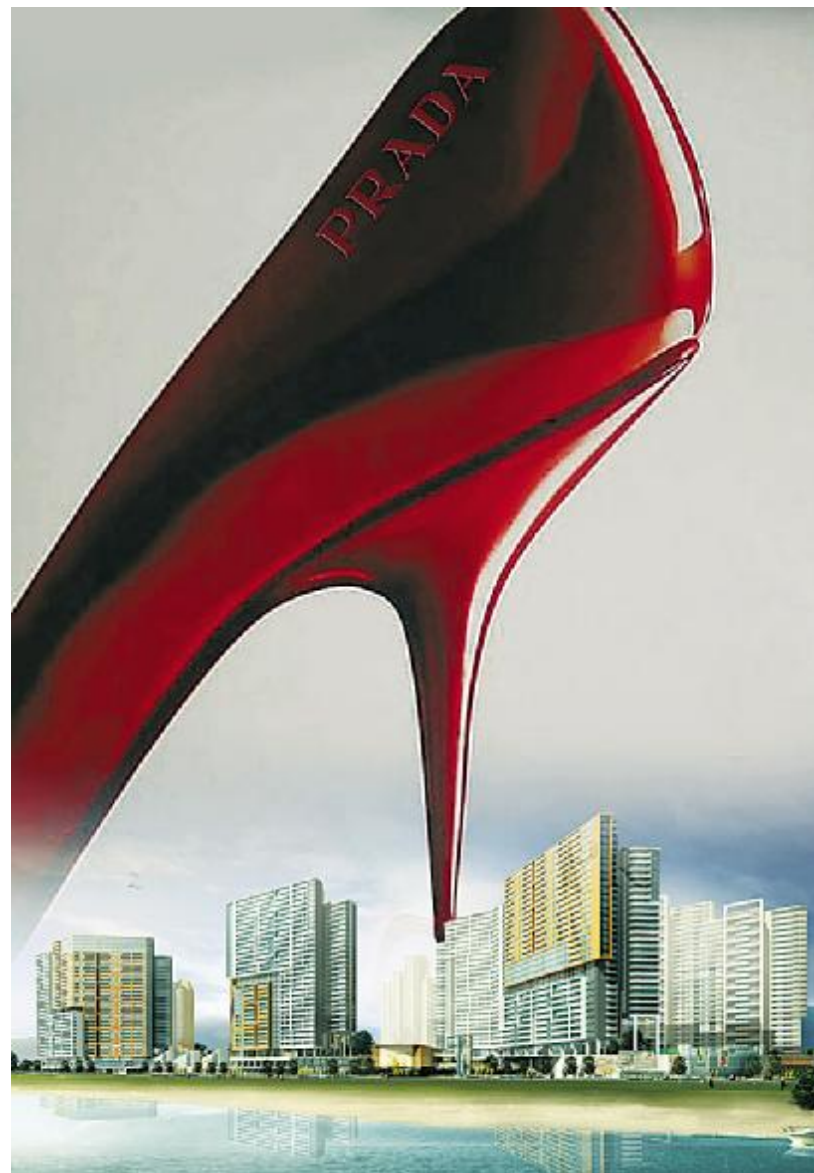
In November 2011, Wenzhou Times held a press conference and signed an advertisement contract with Wenzhou Daily Newspaper.

Wenzhou Times challenged Prada's claim and argued that the Prada trademark was registered on commodities on Class 18 and Class 25. However, their target groups of the advertisement are real estate consumers, the products or the services they provide are not in the same class with Prada.

Infringement was affirmed

The court held that grounds to define the trademark infringement should be based on the protection scope of the trademark law. The involved advertisement was used for brand building and promotion, the public could easily link the Prada with the commodities, so Wenzhou Times' acts violates the trademark law.

Wenzhou Daily Newspaper also challenged Prada's request and claimed that they have examined Prada's licensing procedures and they shouldn't be responsible for Wenzhou Times's infringement act. The court held that based on the evidences, the contract was signed by Wenzhou Daily Newspaper and Wenzhou Times, Prada hasn't participated in this contract.



本报记者 胡殊阳

为了推广旗下开发的某房地产项目, 提高自身产品知名度, 温州时代集团大地房地产开发有限公司(下称时代公司)在当地报纸刊登广告, 制造噱头, 宣称携手全球顶级品牌 "PRADA" 联合举办奢侈品秀、产品说明会。

普拉达公司 "被广告" 诉至法院

2011 年 12 月初, 普拉达公司发现时代公司、温州日报未经授权, 擅自将 "PRADA" 商标使用在《温州都市报》2011 年 12 月 1 日第 1 版刊登的有关 "2011 年 12 月 4 日时代公司举办 '时代御园产品说明会和 PRADA 国际奢侈品秀'" 的广告中, 并且擅自使用了 PRADA 企业商标, 宣称该时装秀是由普拉达公司与时代公

司共同举办。

普拉达公司认为, 鉴于其 "PRADA" 商标及字号在奢侈品行业具有极高的知名度, 时代公司未经授权擅自使用其商标及字号的行为, 侵害了普拉达公司的注册商标专用权。同时, 时代公司虚假声称与普拉达公司共同举办产品推介活动, 非法攀附和利用了普拉达公司的商誉, 损害了消费者的利益, 属于不正当竞争行为。

另外, 普拉达公司表示, 温州日报作为前述广告发布者, 应对时代公司的侵权行为承担连带责任。

综上, 普拉达公司请求法院判令时代公司、温州日报停止侵害其注册商标专用权行为和不正当竞争行为; 要求两被告在《温州都市报》刊登声明, 消除影响; 并连带赔偿经济损失共计 50 万元。

二被告均否认侵权

据悉, 时代公司成立于 2001 年 1 月, 系一家从事普通住宅开发业务的公司。据了解, 2011 年 10 月, 时代公司苍南开发部作为主办方, 委托案外人德沪公司于 2011 年 12 月 4 日

举办时代御园产品说明会活动。其中, 时代公司提供的 PPT 内容为 "2011 Prada 秋冬新品主题秀暨时代·御园产品说明会活动方案", 在该方案中明确提出活动的目的为 "通过嫁接意大利百年时尚品牌的影响力, 时代·御园能以最短的时间在圈内形成良好的口碑传播效应, 为以后的销售打下坚实基础"。

同年 11 月, 时代公司苍南开发部为其开发的房地产项目举办说明会, 与温州日报都市报分公司签订了一份温州都市报广告承揽合同书。涉案广告将 "PRADA" 商标与 "时代·御园" 标识并列突出标注于广告上方, 以花体 "Times Royal Garden & Prada" 作为广告背景。

然而不想此举却将时代公司卷入了一场知识产权诉讼当中。面对普拉达公司的指控, 时代公司表示, 普拉达公司的 "PRADA" 系列商标核准使用在第 18 类、第 25 类商品上。而涉案广告对应的商品或服务为商品房或者商品房销售, 与 "PRADA" 系列商标核准使用的不是同一或者类似商品。时代公司苍南开发部在广告中所使用的被控标识对其楼盘并没有商标性的标识作用, 不具有区分产品或服务来源的作用, 不属于商标使用, 不会导致消费者对楼盘来源或者销售主体产生混淆, 故没有侵害商标权。另外, 时代公司指出, 其系受案外人欺诈订立委托服务合同, 并不具有与普拉达公司进行不正当竞争的恶意。

法院判令承担连带责任

针对时代公司及温州日报的行为是否构成商标侵权, 法院认为, 涉案广告上使用的被控标识是否属于商标法意义上的使用应以使用被控标识的客观表象为依据加以判断。涉案广告属于广告宣传, 通过其广告设计足以判定 "PRADA" 标识均能起到标示商品来源的作用, 均为商标使用。同时, 从涉案广告的内容来看, 该广告系一场活动的邀约广告。因此, 涉案广告并非时代公司、温州日报公司主张的系商品房销售广告。

庭审过程中, 温州日报提供证据证明温州日报都市报分公司审查了普拉达公司的授权手续。法院认为, 温州日报都市报分公司作为广告发布者, 其所承揽的广告落款仅仅有 "时代地产", 而没有普拉达公司的任何信息, 更应当引发其必要的审查义务。在此情形下, 温州日报都市报分公司仍然接受时代公司苍南开发部的委托发布侵权广告, 违反了广告法的规定, 造成普拉达公司的商标权受到侵害的后果。温州日报应当审查涉案广告合法性而未审查, 为时代公司苍南开发部实施侵权行为提供了便利条件, 应当和时代公司承担连带责任。

China's IP in foreign eyes



Chinese-branded smartphones, led by Huawei, have made headway in the global smartphone shipments due to their strong brand image and channel support, despite Samsung and Apple's dominance. It was also found the shipment of Chinese-branded smartphones - Huawei, ZTE, Lenovo and Coolpad - had increased 44 percent compared to the same quarter last year 2012, and also made it

to the top ten in terms of global smartphone shipments. (Chinese smartphones strengthen foothold in Q2 top 10, by ZDNet.com)

尽管三星和苹果仍然占据霸主地位, 以华为为首的中国智能手机品牌, 以其强大的品牌形象和渠道支持, 已经在全球智能手机出货量方面取得了进展。华为、中兴通讯、联想和酷派等四大中国智能手机品牌今年第二季度的出货量比去年同期增加了 44%, 并因此进入全球排名十强。《中国智能手机第二季度排名入全球十强》, 置顶网)

Comment:

According to research data, smartphone shipments for Q2 2013 hit 221 million units, an increase of 6.6 percent from the previous quarter, and a 31.4 percent increase of the same period a year ago. Having made it to the global top ten, the potential of China's top smartphone brands cannot be taken lightly by their international competitors.

点评:

根据研究数据, 2013 年第二季度全球智能手机出货量达到 2.21 亿台, 比上一季度增长了 6.6%, 比去年同期增长了 31.4%。对已经进入全球十强的中国顶级智能手机品牌的潜力, 国际竞争对手不能对其掉以轻心。



As China's economy catches up with America's in pure size, it's worth asking

whether China will eventually assume the top spot when it comes to innovation as well. China is churning out ever more science and technology graduates and climbing the global rankings in patent applications. More global innovation is a good thing for everyone - so there's no reason to fear China's increasing technological heft. (To Remain Tops in Innovation, the U.S. Needs Immigration Reform, by Bloomberg Businessweek)

随着中国经济在规模上追逐美国, 中国是否会在创新上最终成为世界第一, 这是个值得关注的问题。中国 "出产" 了越来越多的科技领域的大学毕业生, 并不断刷新其全球专利申请排名。更多的全球创新对每个人来说都是一件好事——因此我们没有理由担心中国日益增长的科技分量。《保持创新领先, 美国须移民改革》, 彭博商业周刊)

Comment:

The U.S. retains a strong global lead in research and new inven-

tions, in large part because the U.S. continues to attract innovative talent from the world over, including from China. But the trends are changing. More and more scientists and technology developers from China as well as other developing countries are returning home and contribute to its innovative ability.

点评:

美国仍然在研究和新发明上保持着全球领先, 这在很大程度上是因为美国不断吸引着来自世界各地, 包括中国的创新型人才。但形势正在发生改变。来自中国及其他发展中国家的科学家和技术开发人员正在返回家园并为当地创新能力建设做出贡献。

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